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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,854	07/03/2003	Melanie Klasen-Memmer	MERCK-2718	3897

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EXAMINER

WU, SHEAN CHIU

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/611,854	Applicant(s) KLASEN-MEMMER ET AL.	
	Examiner Shean C Wu	Art Unit 1756	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-12,14-16 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,7,13,17 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1, 8, 10, 12, 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, the claim language "one or more polymerizable compounds" is vague because the compounds I and II also can be a polymerizable compound (the CH₂ group is replaced by -CH=CH-). If applicants intend to distinguish the compounds of formulae I and II from "one or more polymerizable compounds", they should do so. Claims 8, 10, 12, 14 and 18 are rejected because they are dependent claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 3-6, 8-12, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Heckmeier (EP 1,106,671 or equivalent US 2001/0,010,366, or US 6,514,580).

The reference discloses that a liquid crystalline medium comprises a mixture of polar compounds having negative dielectric anisotropy and contains at least one compound containing a difluorophenyl ring. The medium has a high specific resistance, wide operating temperature range, short switching time and low voltage, which is useful

for an electro-optical display having electrically coupled birefringence (ECB) effect. See the reference Example 1 on page 9 or section [0098] of US '366. Also, see the claims.

The reference Example 1 anticipates the claimed invention.

4. Claims 1-2, 3-6, 8-12, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Heckmeier (DE 10,207,544 or equivalent US 2002/0,084,443, or US 6,638,581).

The reference discloses that a liquid crystalline medium comprises a mixture of polar compounds having negative dielectric anisotropy and contains at least one compound containing a difluorophenyl ring. The medium has wide operating temperature range, short switching time and low voltage, which is useful for ECB, DAP and VAN devices (see col. 1, lines 44-53). See the reference Examples 1-2 and 4-5 or sections [0156-0159 and 0162-0167] of US '366. Also, see the claims. The reference anticipates the claimed invention.

Allowable Subject Matter

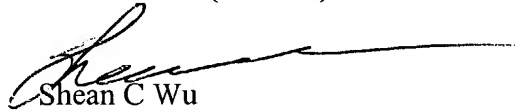
5. Claims 3, 7, 13, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C Wu whose telephone number is 571-272-1393. The examiner can normally be reached on 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shean C Wu
Primary Examiner
Art Unit 1756

SCW